

COMMITTEE REPORT

MADAM PRESIDENT:

The Senate Committee on Insurance and Financial Institutions, to which was referred House Bill No. 1627, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

- 1 Page 2, delete lines 15 through 28.
- 2 Page 3, between lines 28 and 29, begin a new paragraph and insert:
- 3 "SECTION 4. IC 27-1-3.5-0.5 IS ADDED TO THE INDIANA
- 4 CODE AS A NEW SECTION TO READ AS FOLLOWS
- 5 [EFFECTIVE JULY 1, 2009]: **Sec. 0.5. The commissioner may adopt**
- 6 **rules under IC 4-22-2 to implement this chapter."**
- 7 Page 3, delete lines 40 through 42.
- 8 Delete pages 4 through 5.
- 9 Page 6, delete lines 1 through 29.
- 10 Page 6, line 35, delete "pertaining" and insert "**related**".
- 11 Page 7, line 12, strike "directly" and insert "**direct**".
- 12 Page 7, line 21, delete "annual".
- 13 Page 7, line 25, delete ", except sections 7.2 and 7.4 of this
- 14 chapter,".
- 15 Page 7, line 32, delete "annual".
- 16 Page 7, line 34, delete "over financial reporting".
- 17 Page 7, line 38, delete "6," and insert "**6**".
- 18 Page 7, line 38, strike "12,".
- 19 Page 8, line 31, after "insurer's" insert "**management**".
- 20 Page 8, line 42, delete "." and insert "**of the insurer's state of**

- 1 **domicile."**
- 2 Page 9, line 33, delete "annual".
- 3 Page 9, line 38, delete "annual".
- 4 Page 9, line 41, delete "annual".
- 5 Page 10, delete lines 2 through 42.
- 6 Delete pages 11 through 12.
- 7 Page 13, delete lines 1 through 4.
- 8 Page 13, line 25, delete "domiciliary".
- 9 Page 13, line 25, after "state" insert "**of domicile**".
- 10 Page 13, line 28, delete "it's" and insert "**its**".
- 11 Page 13, line 36, delete "annual".
- 12 Page 13, line 38, after "chapter" insert "**is**".
- 13 Page 13, line 38, strike "ceases to be".
- 14 Page 13, line 38, after "be" insert "**terminated by the insurer or**
- 15 **resigns as**".
- 16 Page 13, line 40, strike "cessation of the".
- 17 Page 13, line 41, delete "accountant's".
- 18 Page 13, line 41, strike "services,".
- 19 Page 13, line 41, after "services," insert "**termination or**
- 20 **resignation,**".
- 21 Page 14, line 1, delete "cessation;" and insert "**termination or**
- 22 **resignation;**".
- 23 Page 14, line 5, delete "cessation".
- 24 Page 14, line 5, strike "of the".
- 25 Page 14, line 6, delete "accountant's services" and insert
- 26 "**termination or resignation**".
- 27 Page 14, line 26, delete "annual".
- 28 Page 14, delete line 42.
- 29 Delete pages 15 through 18.
- 30 Page 19, delete lines 1 through 41.
- 31 Page 20, line 30, delete "insurer's".
- 32 Page 21, line 11, after "accountant" insert ",".
- 33 Page 21, line 11, strike "of".
- 34 Page 21, line 11, delete "an".
- 35 Page 21, line 11, strike "insurer,".
- 36 Page 21, line 12, strike "insurer's".
- 37 Page 21, line 12, delete "annual".
- 38 Page 21, delete lines 21 through 42.

- 1 Page 22, delete line 1.
- 2 Page 22, line 4, delete "insurer's".
- 3 Page 22, line 42, strike "(6) That the".
- 4 Page 22, line 42, delete "accountant".
- 5 Page 22, line 42, strike "is in compliance".
- 6 Page 23, strike line 1.
- 7 Page 23, line 4, delete "annual".
- 8 Page 23, line 5, delete "insurer's".
- 9 Page 23, delete lines 27 through 42.
- 10 Delete pages 24 through 25.
- 11 Page 26, delete lines 1 through 15.
- 12 Page 26, line 29, delete "(a)".
- 13 Page 26, line 33, strike "of fifty dollars (\$50) per day until the report
- 14 is received".
- 15 Page 26, line 33, after "received" insert "**prescribed in rules**
- 16 **adopted**".
- 17 Page 26, delete lines 35 through 42.
- 18 Page 27, delete lines 1 through 27.
- 19 Page 27, line 32, strike "domiciliary".
- 20 Page 27, line 36, strike "requirement" and insert "**requirements**".
- 21 Page 32, between lines 16 and 17, begin a new paragraph and insert:
- 22 "SECTION 19. IC 27-1-15.6-12, AS AMENDED BY P.L.27-2007,
- 23 SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 24 JULY 1, 2009]: Sec. 12. (a) For purposes of this section, "permanently
- 25 revoke" means that:
- 26 (1) the producer's license shall never be reinstated; and
- 27 (2) the former licensee, after the license revocation, is not eligible
- 28 to submit an application for a license to the department.
- 29 (b) The commissioner may **reprimand**, levy a civil penalty, place
- 30 an insurance producer on probation, suspend an insurance producer's
- 31 license, revoke an insurance producer's license for a period of years,
- 32 permanently revoke an insurance producer's license, or refuse to issue
- 33 or renew an insurance producer license, or take any combination of
- 34 these actions, for any of the following causes:
- 35 (1) Providing incorrect, misleading, incomplete, or materially
- 36 untrue information in a license application.
- 37 (2) Violating:
- 38 (A) an insurance law;

- 1 (B) a regulation;
- 2 (C) a subpoena of an insurance commissioner; or
- 3 (D) an order of an insurance commissioner;
- 4 of Indiana or of another state.
- 5 (3) Obtaining or attempting to obtain a license through
- 6 misrepresentation or fraud.
- 7 (4) Improperly withholding, misappropriating, or converting any
- 8 monies or properties received in the course of doing insurance
- 9 business.
- 10 (5) Intentionally misrepresenting the terms of an actual or
- 11 proposed insurance contract or application for insurance.
- 12 (6) Having been convicted of a felony.
- 13 (7) Admitting to having committed or being found to have
- 14 committed any unfair trade practice or fraud in the business of
- 15 insurance.
- 16 (8) Using fraudulent, coercive, or dishonest practices, or
- 17 demonstrating incompetence, untrustworthiness, or financial
- 18 irresponsibility in the conduct of business in Indiana or elsewhere.
- 19 (9) Having an insurance producer license, or its equivalent,
- 20 denied, suspended, or revoked in any other state, province,
- 21 district, or territory.
- 22 (10) Forging another's name to an application for insurance or to
- 23 any document related to an insurance transaction.
- 24 (11) Improperly using notes or any other reference material to
- 25 complete an examination for an insurance license.
- 26 (12) Knowingly accepting insurance business from an individual
- 27 who is not licensed.
- 28 (13) Failing to comply with an administrative or court order
- 29 imposing a child support obligation.
- 30 (14) Failing to pay state income tax or to comply with any
- 31 administrative or court order directing payment of state income
- 32 tax.
- 33 (15) Failing to satisfy the continuing education requirements
- 34 established by IC 27-1-15.7.
- 35 (16) Violating section 31 of this chapter.
- 36 (17) Failing to timely inform the commissioner of a change in
- 37 legal name or address, in violation of section 7(h) of this chapter.
- 38 (c) The commissioner shall refuse to:

- 1 (1) issue a license; or
2 (2) renew a license issued;
3 under this chapter to any person who is the subject of an order issued
4 by a court under IC 31-14-12-7 or IC 31-16-12-10 (or
5 IC 31-1-11.5-13(m) or IC 31-6-6.1-16(m) before their repeal).
- 6 (d) If the commissioner refuses to renew a license or denies a
7 application for a license, the commissioner shall notify the applicant or
8 licensee and advise the applicant or licensee, in a writing sent through
9 regular first class mail, of the reason for the denial of the applicant's
10 application or the nonrenewal of the licensee's license. The applicant
11 or licensee may, not more than sixty-three (63) days after notice of
12 denial of the applicant's application or nonrenewal of the licensee's
13 license is mailed, make written demand to the commissioner for a
14 hearing before the commissioner to determine the reasonableness of the
15 commissioner's action. The hearing shall be held not more than thirty
16 (30) days after the applicant or licensee makes the written demand, and
17 shall be conducted under IC 4-21.5.
- 18 (e) The license of a business entity may be suspended, revoked, or
19 refused if the commissioner finds, after hearing, that a violation of an
20 individual licensee acting on behalf of the partnership or corporation
21 was known or should have been known by one (1) or more of the
22 partners, officers, or managers of the partnership or corporation and:
23 (1) the violation was not reported to the commissioner; and
24 (2) no corrective action was taken.
- 25 (f) In addition to or in lieu of any applicable denial, suspension, or
26 revocation of a license under subsection (b), a person may, after a
27 hearing, be subject to the imposition by the commissioner under
28 subsection (b) of a civil penalty of not less than fifty dollars (\$50) and
29 not more than ten thousand dollars (\$10,000). A penalty imposed under
30 this subsection may be enforced in the same manner as a civil
31 judgement.
- 32 (g) A licensed insurance producer or limited lines producer shall,
33 not more than ten (10) days after the producer receives a request in a
34 registered or certified letter from the commissioner, furnish the
35 commissioner with a full and complete report listing each insurer with
36 which the licensee has held an appointment during the year preceding
37 the request.
- 38 (h) If a licensee fails to provide the report requested under

1 subsection (g) not more than ten (10) days after the licensee receives
 2 the request, the commissioner may, in the commissioner's sole
 3 discretion, without a hearing, and in addition to any other sanctions
 4 allowed by law, suspend any insurance license held by the licensee
 5 pending receipt of the appointment report.

6 (i) The commissioner shall promptly notify all appointing insurers
 7 and the licensee regarding any suspension, revocation, or termination
 8 of a license by the commissioner under this section.

9 (j) The commissioner may not grant, renew, continue, or permit to
 10 continue any license if the commissioner finds that the license is being
 11 used or will be used by the applicant or licensee for the purpose of
 12 writing controlled business. As used in this subsection, "controlled
 13 business" means:

14 (1) insurance written on the interests of:

15 (A) the applicant or licensee;

16 (B) the applicant's or licensee's immediate family; or

17 (C) the applicant's or licensee's employer; or

18 (2) insurance covering:

19 (A) the applicant or licensee;

20 (B) members of the applicant's or licensee's immediate family;

21 or

22 (C) either:

23 (i) a corporation, limited liability company, association, or
 24 partnership; or

25 (ii) the officers, directors, substantial stockholders, partners,
 26 members, managers, employees of such a corporation,
 27 limited liability company, association, or partnership;

28 of which the applicant or licensee or a member of the
 29 applicant's or licensee's immediate family is an officer,
 30 director, substantial stockholder, partner, member, manager,
 31 associate, or employee.

32 However, this section does not apply to insurance written or interests
 33 insured in connection with or arising out of credit transactions. A
 34 license is considered to have been used or intended to be used for the
 35 purpose of writing controlled business if the commissioner finds that
 36 during any twelve (12) month period the aggregate commissions earned
 37 from the controlled business exceeded twenty-five percent (25%) of the
 38 aggregate commission earned on all business written by the applicant

1 or licensee during the same period.

2 (k) The commissioner has the authority to:

3 (1) enforce the provisions of; and

4 (2) impose any penalty or remedy authorized by;

5 this chapter or any other provision of this title against any person who
6 is under investigation for or charged with a violation of this chapter or
7 any other provision of this title, even if the person's license or
8 registration has been surrendered or has lapsed by operation of law.

9 (l) For purposes of this section, the violation of any provision of
10 IC 28 concerning the sale of a life insurance policy or an annuity
11 contract shall be considered a violation described in subsection (b)(2).

12 (m) The commissioner may order a licensee to make restitution if
13 the commissioner finds that the licensee has committed a violation
14 described in:

15 (1) subsection (b)(4);

16 (2) subsection (b)(7);

17 (3) subsection (b)(8); or

18 (4) subsection (b)(16).

19 (n) The commissioner shall notify the securities commissioner
20 appointed under IC 23-19-6-1(a) when an administrative action or civil
21 proceeding is filed under this section and when an order is issued under
22 this section denying, suspending, or revoking a license."

23 Page 41, line 14, delete "(as defined in IC 26-1-8.1-102)." and insert
24 **"as defined in IC 26-1-8.1-102."**

25 Page 55, line 31, delete "remit" and insert **"remits"**.

26 Page 58, delete lines 21 through 42, begin a new paragraph and
27 insert:

28 "SECTION 34. IC 27-8-5-16.5, AS AMENDED BY P.L.127-2006,
29 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
30 JULY 1, 2009]: Sec. 16.5. (a) As used in this section, "delivery state"
31 means any state other than Indiana in which a policy is delivered or
32 issued for delivery.

33 (b) Except as provided in subsection (c), (d), or (e), a certificate may
34 not be issued to a resident of Indiana pursuant to a group policy that is
35 delivered or issued for delivery in a state other than Indiana.

36 (c) A certificate may be issued to a resident of Indiana pursuant to
37 a group policy not described in subsection (d) that is delivered or
38 issued for delivery in a state other than Indiana if:

- 1 (1) the delivery state has a law substantially similar to section 16
- 2 of this chapter;
- 3 (2) the delivery state has approved the group policy; and
- 4 (3) the policy or the certificate contains provisions that are:
 - 5 (A) substantially similar to the provisions required by:
 - 6 (i) section 19 of this chapter;
 - 7 (ii) section 21 of this chapter; and
 - 8 (iii) IC 27-8-5.6; and
 - 9 (B) consistent with the requirements set forth in:
 - 10 (i) section 24 of this chapter;
 - 11 (ii) IC 27-8-6;
 - 12 (iii) IC 27-8-14;
 - 13 (iv) IC 27-8-23;
 - 14 (v) 760 IAC 1-38.1; and
 - 15 (vi) 760 IAC 1-39.
- 16 (d) A certificate may be issued to a resident of Indiana under an
- 17 association group policy, a discretionary group policy, or a trust group
- 18 policy that is delivered or issued for delivery in a state other than
- 19 Indiana if:
 - 20 (1) the delivery state has a law substantially similar to section 16
 - 21 of this chapter;
 - 22 (2) the delivery state has approved the group policy; and
 - 23 (3) the policy or the certificate contains provisions that are:
 - 24 (A) substantially similar to the provisions required by:
 - 25 (i) section 19 of this chapter or, if the policy or certificate is
 - 26 described in section 2.5(b)(2) of this chapter, section 2.5 of
 - 27 this chapter;
 - 28 (ii) ~~section 19.2~~ **19.3** of this chapter if the policy or
 - 29 certificate contains a waiver of coverage;
 - 30 (iii) section 21 of this chapter; and
 - 31 (iv) IC 27-8-5.6; and
 - 32 (B) consistent with the requirements set forth in:
 - 33 (i) section 15.6 of this chapter;
 - 34 (ii) section 24 of this chapter;
 - 35 (iii) section 26 of this chapter;
 - 36 (iv) IC 27-8-6;
 - 37 (v) IC 27-8-14;
 - 38 (vi) IC 27-8-14.1;

1 (vii) IC 27-8-14.5;
 2 (viii) IC 27-8-14.7;
 3 (ix) IC 27-8-14.8;
 4 (x) IC 27-8-20;
 5 (xi) IC 27-8-23;
 6 (xii) IC 27-8-24.3;
 7 (xiii) IC 27-8-26;
 8 (xiv) IC 27-8-28;
 9 (xv) IC 27-8-29;
 10 (xvi) 760 IAC 1-38.1; and
 11 (xvii) 760 IAC 1-39.

12 (e) A certificate may be issued to a resident of Indiana pursuant to
 13 a group policy that is delivered or issued for delivery in a state other
 14 than Indiana if the commissioner determines that the policy pursuant
 15 to which the certificate is issued meets the requirements set forth in
 16 section 17(a) of this chapter.

17 (f) This section does not affect any other provision of Indiana law
 18 governing the terms or benefits of coverage provided to a resident of
 19 Indiana under any certificate or policy of insurance.

20 SECTION 35. IC 27-8-5-17, AS AMENDED BY P.L.218-2007,
 21 SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 22 JULY 1, 2009]: Sec. 17. (a) A group accident and sickness insurance
 23 policy shall not be delivered or issued for delivery in Indiana to a group
 24 that is not described in section 16(1)(A), 16(2)(A), 16(3)(A), 16(4)(A),
 25 16(5)(A), 16(6)(A), 16(7), or 16(8) of this chapter unless:

26 **(1) the group applies to the commissioner for approval as a**
 27 **discretionary group;**

28 **(2) the commissioner reviews the group according to the same**
 29 **standards as a group described in section 16 of this chapter;**
 30 **and**

31 **(3) the commissioner finds that:**

32 ~~(1)~~ **(A)** the issuance of the policy is not contrary to the best
 33 interest of the public;

34 ~~(2)~~ **(B)** the issuance of the policy would result in economies of
 35 acquisition or administration; and

36 ~~(3)~~ **(C)** the benefits of the policy are reasonable in relation to
 37 the premiums charged.

38 (b) Except as otherwise provided in this chapter, an insurer may

1 exclude or limit the coverage under a policy described in subsection (a)
 2 on any person as to whom evidence of individual insurability is not
 3 satisfactory to the insurer.".

4 Delete page 59.

5 Page 60, delete lines 1 through 35.

6 Page 61, between lines 31 and 32, begin a new paragraph and insert:

7 "SECTION 40. IC 27-8-15-9 IS AMENDED TO READ AS
 8 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. (a) Except as
 9 provided in section 28 of this chapter, as used in this chapter, "health
 10 insurance plan" or "plan" means any:

11 (1) hospital or medical expense incurred policy or certificate;

12 (2) hospital or medical service plan contract; or

13 (3) health maintenance organization subscriber contract;

14 provided to the employees of a small employer.

15 (b) The term does not include the following:

16 (1) Accident-only, credit, dental, vision, Medicare supplement,
 17 long term care, or disability income insurance.

18 (2) Coverage issued as a supplement to liability insurance.

19 (3) Worker's compensation or similar insurance.

20 (4) Automobile medical payment insurance.

21 (5) A specified disease policy. ~~issued as an individual policy.~~

22 ~~(6) A limited benefit health insurance policy issued as an~~
 23 ~~individual policy.~~

24 ~~(7)~~ (6) A short term insurance plan that:

25 (A) may not be renewed; and

26 (B) has a duration of not more than six (6) months.

27 ~~(8)~~ (7) A policy that provides a stipulated daily, weekly, or
 28 monthly payment to an insured during hospital confinement;
 29 without regard to the actual expense of the confinement;
 30 indemnity benefits not based on any expense incurred
 31 requirement, including a plan that provides coverage for:

32 (A) hospital confinement, critical illness, or intensive care;
 33 or

34 (B) gaps for deductibles or copayments.

35 (8) A supplemental plan that always pays in addition to other
 36 coverage.

37 (9) A student health plan.

38 (10) An employer sponsored health benefit plan that is:

- 1 **(A) provided to individuals who are eligible for Medicare;**
 2 **and**
 3 **(B) not marketed as, or held out to be, a Medicare**
 4 **supplement policy.".**

5 Page 62, between lines 36 and 37, begin a new paragraph and insert:
 6 "SECTION 46. IC 27-8-28-1 IS AMENDED TO READ AS
 7 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) As used in this
 8 chapter, "accident and sickness insurance policy" means an insurance
 9 policy that provides one (1) or more of the kinds of insurance described
 10 in Class 1(b) and 2(a) of IC 27-1-5-1.

11 (b) The term does not include the following:

- 12 (1) Accident only, credit, dental, vision, Medicare supplement,
 13 ~~long term care~~, or disability income insurance.
 14 (2) Coverage issued as a supplement to liability insurance.
 15 (3) Automobile medical payment insurance.
 16 (4) A specified disease policy issued as an individual policy.
 17 (5) A limited benefit health insurance policy issued as an
 18 individual policy.
 19 (6) A short term insurance plan that:
 20 (A) may not be renewed; and
 21 (B) has a duration of not more than six (6) months.
 22 (7) A policy that provides a stipulated daily, weekly, or monthly
 23 payment to an insured during hospital confinement without regard
 24 to the actual expense of the confinement.
 25 (8) Worker's compensation or similar insurance.".

26 Page 63, delete lines 10 through 42.

27 Delete page 64.

28 Page 65, delete lines 1 through 19.

29 Page 66, line 4, after "IC 27-1-3.5-3.5;" insert "IC 27-1-3.5-9;
 30 IC 27-1-3.5-12;".

- 1 Page 66, line 5, delete "." and insert "; IC 27-8-15.5".
- 2 Page 66, delete lines 11 through 18.
- 3 Renumber all SECTIONS consecutively.
(Reference is to HB 1627 as printed February 10, 2009.)

and when so amended that said bill do pass.

Committee Vote: Yeas 8, Nays 0.

Paul

Chairperson